

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No. 1:20CR20-4

Civ. Action No. 1:22CV57

(Judge Kleeh)

DAVID CHRISTOPHER MONROE,

Defendant.

ORDER ADOPTING AMENDED REPORT AND RECOMMENDATION [ECF NO. 379]

On July 25, 2022, the pro se Petitioner, David Christopher Monroe ("Petitioner"), filed *Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (the "Motion"). [ECF No. 318].¹

I. REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï for initial review. On April 18, 2023, the Magistrate Judge filed an Amended Report and Recommendation ("R&R") [ECF No. 379], recommending the Court deny the Motion and dismiss the case with prejudice. Id.

The R&R also informed the parties regarding their right to

¹ Unless otherwise noted, all docket numbers refer to Criminal Action No. 1:20CR20-4.

David Christopher Monroe

ORDER ADOPTING AMENDED REPORT AND RECOMMENDATION [ECF NO. 379]

file specific written objections to the magistrate judge's report and recommendation. Under Local Rule 12 of the Local Rules of Prisoner Litigation Procedure of the Northern District of West Virginia, "[a]ny party may object to a magistrate judge's recommended disposition by filing and serving written objections within fourteen (14) calendar days after being served with a copy of the magistrate judge's recommended disposition." LR PL P 12. Therefore, parties had fourteen (14) calendar days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." The R&R further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." The docket reflects that Petitioner accepted service of the Amended R&R on April 28, 2023. [ECF No. 381]. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing

David Christopher Monroe

ORDER ADOPTING AMENDED REPORT AND RECOMMENDATION [ECF NO. 379]

Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

II. DECISION

After receiving no objections, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the Amended R&R [ECF No. 379]. The *Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* is **DENIED and DISMISSED WITH PREJUDICE** [ECF No. 318] and Civil Action Number 1:22CV57 is **DISMISSED WITH PREJUDICE**. The R&R [ECF No. 378] is **DENIED AS MOOT**.

It is so **ORDERED**.

The Clerk shall enter a separate judgment order in favor of the United States; transmit a copy of this order to Monroe by certified mail return receipt requested and to counsel of record by electronic means; and strike Civil Action Number 1:22CV57 from the Court's active docket.

DATED: October 5, 2023



THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA